

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOSEPH STEELE,

Plaintiff,

v.

COMMONWEALTH OF PENNSYLVANIA, et al.,

Defendants.

Civil Action No. 07-271 Erie

**MEMORANDUM ORDER**

This civil rights action was received by the Clerk of Court on October 9, 2007, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

Plaintiff, a state prisoner currently incarcerated at the SCI-Mercer, brought this action under 42 U.S.C. § 1983. Plaintiff purportedly brings this case on behalf of himself and his daughter, Sarah Steele. Generally, Plaintiff alleges that Defendants have interfered with his relationship with his minor daughter, Sarah Steele.

The Magistrate Judge's Report and Recommendation [Doc. No. 36], filed on December 4, 2008, recommended that Defendants' motion to dismiss [Doc. No. 30] be granted based upon the time bar of the statute of limitations. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. Objections were filed by Plaintiff on December 11, 2008 [Doc. No. 37]. In his Objections, Plaintiff argues, *inter alia*, that his daughter's claims were tolled. At the time the Plaintiff instituted this action, ostensibly on her behalf, he did not have custody of her and was estranged from her, as set forth in his Amended Complaint. Plaintiff filed a notice with the Court indicating that she turned 18 on December 17, 2007 [Doc. No. 29]. Consequently, her claim is dismissed without prejudice to reassert it, in her own right, if she so chooses.

AND NOW, this 6<sup>th</sup> day of March, 2009;

IT IS HEREBY ORDERED that Defendants' motion to dismiss [Doc. No. 30] is

GRANTED.

The Report and Recommendation [Doc. No. 36] of Magistrate Judge Baxter, filed on December 4, 2008, is adopted as the opinion of the Court. The Clerk of Courts is directed to close the case.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge